

ESTTA Tracking number: **ESTTA407988**

Filing date: **05/09/2011**

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

## Notice of Opposition

Notice is hereby given that the following party opposes registration of the indicated application.

### Opposer Information

Name	GOSMiLE, Inc.
Granted to Date of previous extension	05/08/2011
Address	715 Hearst Avenue Berkeley, CA 94710 UNITED STATES
Attorney information	Wendi E. Sloane Barack Ferrazzano Kirschbaum & Nagelberg LLP 200 W. Madison Street, Suite 3900 Chicago, IL 60606 UNITED STATES trademarks@bfkn.com Phone:312-984-3100

### Applicant Information

Application No	85102954	Publication date	11/09/2010
Opposition Filing Date	05/09/2011	Opposition Period Ends	05/08/2011
Applicant	ORACEUTICAL LLC 815 PLEASANT STREET LEE, MA 01238 UNITED STATES		

### Goods/Services Affected by Opposition

Class 003. All goods and services in the class are opposed, namely: Cosmetic preparations for the care of mouth and teeth; Non-medicated mouth rinse; Teeth whitening kit; Tooth whitening preparations
Class 005. All goods and services in the class are opposed, namely: Anticavity mouth rinses; Medicated toothpaste

### Grounds for Opposition

Priority and likelihood of confusion	Trademark Act section 2(d)
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### Marks Cited by Opposer as Basis for Opposition

U.S. Registration No.	3389326	Application Date	05/29/2003
Registration Date	02/26/2008	Foreign Priority Date	NONE

Word Mark	GO SMILE
Design Mark	<b>GO SMILE</b>
Description of Mark	NONE
Goods/Services	Class 003. First use: First Use: 2007/07/31 First Use In Commerce: 2007/07/31 Products for care and treatment of the teeth, lips and breath, namely, breath spray, mouthwash, toothpaste, lip balm, and tooth whiteners comprised of peroxide gels Class 021. First use: First Use: 2007/07/31 First Use In Commerce: 2007/07/31 Toothbrushes and dental floss

U.S. Registration No.	2566285	Application Date	03/15/2001
Registration Date	04/30/2002	Foreign Priority Date	NONE
Word Mark	GO SMILE		
Design Mark	<b>GO SMILE</b>		
Description of Mark	NONE		
Goods/Services	Class 003. First use: First Use: 2001/06/01 First Use In Commerce: 2001/06/01 Tooth Whitening System Comprised of Peroxide Gels		

U.S. Registration No.	3218390	Application Date	05/29/2003
Registration Date	03/13/2007	Foreign Priority Date	NONE
Word Mark	GOSMILE AM		
Design Mark	<b>GOSMILE AM</b>		
Description of Mark	NONE		

Goods/Services	Class 003. First use: First Use: 2003/10/01 First Use In Commerce: 2003/10/01 Toothpaste marketed and sold in high end retail department stores as well as in spas, salons, resorts, doctors' offices, dentists' offices, and high end hotels		
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U.S. Registration No.	3414828	Application Date	05/29/2003
Registration Date	04/22/2008	Foreign Priority Date	NONE
Word Mark	GOSMILE PM		
Design Mark	<b>GOSMILE PM</b>		
Description of Mark	NONE		
Goods/Services	Class 003. First use: First Use: 2003/10/01 First Use In Commerce: 2003/10/01 toothpaste marketed and sold in high end retail department stores as well as in spas, salons, resorts, doctors' offices, dentists' offices, and high end hotels		


U.S. Registration No.	3230142	Application Date	05/29/2003
Registration Date	04/17/2007	Foreign Priority Date	NONE
Word Mark	GOSMILE AM/PM		
Design Mark	<b>GOSMILE AM/PM</b>		
Description of Mark	NONE		
Goods/Services	Class 003. First use: First Use: 2003/10/01 First Use In Commerce: 2003/10/01 Toothpaste marketed and sold in high end retail department stores as well as in spas, salons, resorts, doctors' offices, dentists' offices, and high end hotels		

U.S. Registration No.	3850454	Application Date	11/08/2007
Registration Date	09/21/2010	Foreign Priority Date	NONE
Word Mark	GO SMILE		
Design Mark	<b>GO SMILE</b>		
Description of Mark	NONE		
Goods/Services	Class 021. First use: First Use: 2010/01/00 First Use In Commerce: 2010/01/00 Dental floss		

U.S. Registration No.	3461582	Application Date	11/08/2007
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Registration Date	07/08/2008	Foreign Priority Date	NONE
Word Mark	GO SMILE		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 035. First use: First Use: 2001/07/22 First Use In Commerce: 2001/07/22 On-line retail store services featuring oral care products		

U.S. Registration No.	3612420	Application Date	12/16/2008
Registration Date	04/28/2009	Foreign Priority Date	NONE
Word Mark	GO SMILE		
Design Mark			
Description of Mark	The mark consists of the word "GO" in stylized script and the word "SMiLE" in stylized script.		
Goods/Services	Class 003. First use: First Use: 2008/05/00 First Use In Commerce: 2008/05/00 Breath freshener; Lip balm; Mouthwash; Tooth whitening preparations; Toothpaste Class 021. First use: First Use: 2008/11/00 First Use In Commerce: 2008/11/00 Toothbrushes		

U.S. Registration No.	3198345	Application Date	10/12/2005
Registration Date	01/16/2007	Foreign Priority Date	NONE
Word Mark	LEMONADE SMILE		
Design Mark			

Description of Mark	NONE
Goods/Services	Class 003. First use: First Use: 2005/12/15 First Use In Commerce: 2005/12/15 Toothpaste

U.S. Registration No.	3433410	Application Date	10/06/2005
Registration Date	05/20/2008	Foreign Priority Date	NONE

Word Mark	THE SMILE BEAUTY COMPANY
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Design Mark	 <p>THE SMILE BEAUTY COMPANY</p>
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Description of Mark	NONE
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Goods/Services	Class 003. First use: First Use: 2006/01/00 First Use In Commerce: 2006/01/00 Oral care products, namely, tooth whiteners, lip gloss, toothpastes, breath fresheners, namely, (1) diluted breath sprays used as mouthwash, and (2) concentrated breath sprays
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U.S. Registration No.	3612421	Application Date	12/16/2008
Registration Date	04/28/2009	Foreign Priority Date	NONE


Word Mark	SMILECEUTICALS
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Design Mark	 <p>SMILECEUTICALS</p>
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Description of Mark	NONE
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Goods/Services	Class 003. First use: First Use: 2006/06/00 First Use In Commerce: 2006/06/00 Breath freshener; Lip balm; Non-medicated dental rinse
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U.S. Application No.	77886519	Application Date	12/04/2009
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Registration Date	NONE	Foreign Priority Date	NONE
Word Mark	FLASH YOUR SMILE		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 003. First use: Tooth whitening preparations		

U.S. Registration No.	3920692	Application Date	09/17/2009
Registration Date	02/15/2011	Foreign Priority Date	NONE
Word Mark	LIGHT YOUR SMILE		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 010. First use: First Use: 2010/08/11 First Use In Commerce: 2010/08/11 dental apparatus, namely, intra-oral light systems		

U.S. Application No.	85205149	Application Date	12/23/2010
Registration Date	NONE	Foreign Priority Date	NONE
Word Mark	SMILE ON THE GO		

Design Mark	
Description of Mark	NONE
Goods/Services	Class 003. First use: kits comprised primarily of teeth whitening preparations; teeth whitening preparations

Attachments	76518246#TMSN.jpeg ( 1 page )( bytes ) 78053342#TMSN.gif ( 1 page )( bytes ) 76518247#TMSN.gif ( 1 page )( bytes ) 76518244#TMSN.gif ( 1 page )( bytes ) 76518245#TMSN.gif ( 1 page )( bytes ) 77325004#TMSN.gif ( 1 page )( bytes ) 77325028#TMSN.jpeg ( 1 page )( bytes ) 77634334#TMSN.jpeg ( 1 page )( bytes ) 78731289#TMSN.jpeg ( 1 page )( bytes ) 78980038#TMSN.jpeg ( 1 page )( bytes ) 77634357#TMSN.jpeg ( 1 page )( bytes ) 77886519#TMSN.jpeg ( 1 page )( bytes ) 77828985#TMSN.jpeg ( 1 page )( bytes ) 85205149#TMSN.jpeg ( 1 page )( bytes ) GSLE-0243 Notice of Opposition.pdf ( 33 pages )(5404817 bytes )
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### Certificate of Service

The undersigned hereby certifies that a copy of this paper has been served upon all parties, at their address record by First Class Mail on this date.

Signature	/Wendi E. Sloane/
Name	Wendi E. Sloane
Date	05/09/2011

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

_____	x
GOSMILE, INC.	:
	:
Opposer,	: In the matter of:
	: Application Serial No. 85/102,954
	: For the mark:
	: SMILE!
v.	: Published in the <i>Official Gazette</i>
	: On November 9, 2010
	:
ORACEUTICAL LLC,	:
	:
Applicant.	:
	:
	:
	:
	:
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_____	:
	x

**NOTICE OF OPPOSITION**

Opposer GOSMiLE, Inc. ("Opposer"), a Delaware corporation with the address of 715 Hearst Avenue, Suite 300, Berkeley, California 94710, believes that it will be damaged by the registration of the mark SMILE! ("Applicant's Mark"), as shown in Application Serial No. 85/102,954, filed on August 9, 2010 by Oraceutical LLC (hereinafter "Applicant"), for "Cosmetic preparations for the care of mouth and teeth; Non-medicated mouth rinse; Teeth whitening kit; Tooth whitening preparations" in International Class 3 and "Anticavity mouth rinses; Medicated toothpaste" in International Class 5, and hereby opposes the same.

The grounds for opposition are as follows:



1. Opposer, a Delaware corporation, is a manufacturer and seller of various high-quality oral care products including, among others, teeth whitening preparations, and has advertised, promoted, distributed and sold, since at least as early as 2001, a wide variety of such goods under its unique trademarks GO SMILE and GOSMILE, as well as other “smile”-based trademarks, in the United States.

2. Opposer is the owner of several federal trademark registrations in the United States for its unique GO SMILE and GOSMILE trademarks (collectively, the “GO SMILE Trademarks”). These registrations include:

MARK	REG./APPLN. NO.	GOODS	CLASS(ES)
GO SMILE	3,389,326	products for care and treatment of the teeth, lips and breath, namely, breath spray, mouthwash, toothpaste, lip balm, and tooth whiteners comprised of peroxide gels; toothbrushes and dental floss	3 and 21
GO SMILE	2,566,285	tooth whitening system comprised of peroxide gels	3
GOSMILE AM	3,218,390	toothpaste marketed and sold in high end retail department stores as well as in spas, salons, resorts, doctors' offices, dentists' offices, and high end hotels	3
GOSMILE PM	3,414,828	toothpaste marketed and sold in high end retail department stores as well as in spas, salons, resorts, doctors' offices, dentists' offices, and high end hotels	3
GOSMILE AM/PM	3,230,142	toothpaste marketed and sold in high end retail department stores as well as in spas, salons, resorts, doctors' offices, dentists' offices, and high end hotels	3
GOSMILE	3,850,454	dental floss	21
GOSMILE	3,461,582	on-line retail store services featuring oral care products	35

MARK	REG./APPLN. NO.	GOODS	CLASS(ES)
<b>GO SMILE</b>	3,612,420	Breath freshener; lip balm; mouthwash; tooth whitening preparations; toothpaste; toothbrushes	3 and 21

3. In addition, Opposer also owns registrations and applications for the following trademarks using the “smile” component (“SMILE Trademarks”):

MARK	REG./APPLN. NO.	GOODS	CLASS(ES)
LEMONADE SMILE	3,198,345	Toothpaste	3
THE SMILE BEAUTY COMPANY	3,433,410	oral care products, namely, tooth whiteners, lip gloss, toothpastes, breath fresheners, namely, (1) diluted breath sprays used as mouthwash, and (2) concentrated breath sprays	3
SMILECEUTICALS	3,612,421	breath freshener; lip balm; non-medicated dental rinse	3
FLASH YOUR SMILE	77/886,519	tooth whitening preparations	3
LIGHT YOUR SMILE	3,920,692	dental apparatus, namely, intra-oral light systems	10
SMILE ON THE GO	85/205,149	kits comprised primarily of teeth whitening preparations; teeth whitening preparations	3

These registrations are valid and subsisting. Copies of these registrations and applications from the U.S. Patent and Trademark Office (“PTO”) Database are attached herewith, collectively marked as **Exhibit A**. Certified copies of these properties will be made of record during Opposer’s testimony period.

4. By virtue of the shared common “smile” element, the registrations and applications for the GO SMILE and SMILE Trademarks comprise a family of source identifiers

that protects Opposer's numerous oral care products including teeth whitening systems and related merchandise.

5. Opposer currently distributes its products under the GOSMILE and SMILE Trademarks in commerce, both within the United States and in numerous countries throughout the world.

6. The Opposer GO SMILE and SMILE Trademarks have come to symbolize a convenient, effective and simple-to-use line of at-home teeth whitening, cleaning and other oral care products in the United States.

7. Long prior to the filing date of the application opposed herein, Opposer used the GO SMILE and SMILE Trademarks for the goods covered by the registrations referred to above. As a result of such use, Opposer has developed a distinctive style and quality of products that the general public throughout the United States associates with the GO SMILE and SMILE Trademarks. Oral care products sold under the GO SMILE and SMILE Trademarks have been extremely successful throughout the country and internationally.

8. The GO SMILE and SMILE Trademarks have achieved a vast amount of consumer recognition by virtue of Opposer's continuous use of the marks for ten years with the registered goods and its advertising and publicity in a variety of well-known regional and national news sources, including, among others: *The New York Times Magazine*, *Women's Health*, *Allure*, *Shape*, *Self*, *OK*, *Life & Style*, *Cosmopolitan*, *Glamour*, *Redbook*, *Woman's Day*, *InStyle* magazine, *US Weekly* and *USA Today*, as well as on ABC's "The View" and CBS's "The Early Show." Opposer also features the GO SMILE and SMILE Trademarks on its own website, [www.gosmile.com](http://www.gosmile.com), representative pages of which are collected at **Exhibit B**.



9. Opposer's goods have been sold and marketed under its GO SMILE and SMILE Trademarks, both in the United States and internationally, at select retail stores, including, among others, Sephora, Ulta, Nordstrom and Saks Fifth Avenue, as well as on the Internet through several online retailers, including [www.drugstore.com](http://www.drugstore.com) and [www.amazon.com](http://www.amazon.com), and have become exclusively associated with Opposer. As a result of this extensive use, Opposer has acquired an eminent reputation and valuable good will in the GO SMILE and SMILE Trademarks throughout the United States. Finally, "GO SMILE" also constitutes the Opposer's trade name in addition to simply being a trademark for its products.

10. On August 9, 2010, Applicant filed its application to register "Smile!" in Class 3 for "Cosmetic preparations for the care of mouth and teeth; Non-medicated mouth rinse; Teeth whitening kit; Tooth whitening preparations" and in Class 5 for "Anticavity mouth rinses; Medicated toothpaste." Applicant filed its application under the intent-to-use basis, 15 U.S.C. § 1051(b). On information and belief, Applicant has yet to make use of Applicant's Mark in commerce with the applied-for goods in Classes 3 and 5 in the United States.

11. Applicant's Mark so resembles the GO SMILE Trademarks in appearance, sound and in the overall commercial impression it imparts on consumers that it is likely to cause confusion, mistake or deception among the buying public as to source if registered with the goods identified in the application opposed herein, in violation of 15 U.S.C. § 1052(d).

12. Foremost, the visual appearance of Applicant's Mark to the GO SMILE Trademarks and many of the SMILE Trademarks is strikingly similar. "Smile!" is separated from "Go Smile" merely by Applicant's omission of the word "go." "Smile!" was also filed without any unique design element or font that could otherwise better distinguish it from the GO SMILE Trademark. Instead, the application includes a standard character claim.

13. The GO SMILE Trademarks and Applicant's Mark are also similar phonetically. The marks sound practically the same, and are in fact acoustically identical in regard to the "Smile" component.

14. Applicant's Mark imparts an overall commercial impression similar to the GO SMILE Trademarks. Each mark is a simple declarative statement that associates the respective owner's goods with the same general concept; namely, encouraging a smile.

15. Applicant has applied to register its mark with teeth whitening and other oral care products—the identical goods for which Opposer has registered and is using its GO SMILE Trademarks and other SMILE Trademarks, thereby increasing the likelihood of confusion. Applicant's registration of a mark highly similar to that of the Opposer GO SMILE Trademarks is likely to give rise to the mistaken belief among consumers that Applicant's Class 3 and 5 oral care products emanate from the same source and/or that Applicant's goods are sponsored by, approved by, connected with or otherwise affiliated with those of Opposer.

16. The likelihood of confusion is further heightened by the fact that Opposer owns a family of "smile"-based marks. Consumers who encounter Applicant's Mark are likely to confuse it as being a member of the Opposer's SMILE Trademarks family given the overlap of the word "smile". As a result, the public will mistakenly believe that Applicant's oral care products emanate from Opposer.

17. Applicant's and Opposer's oral care products are likely to be encountered by certain classes of overlapping consumers in the same geographic markets, passing through similar channels of distribution and trade. In addition, being the identical goods—teeth whitening preparations and other oral care products—Opposer's and Applicant's goods under the

respective marks are likely to be sold at similar price points, further heightening the risk of confusion.

18. Applicant's Mark so resembles the GO SMILE Trademarks that it is likely to cause confusion, mistake or deception within the meaning of Section 2(d) of the Lanham Act.

19. Opposer has not authorized or consented to Applicant's use or registration of Applicant's Mark in the United States.

20. Accordingly, registration of Applicant's Mark in connection with the goods specified in its application will likely cause consumers to be confused, mistaken or deceived as to the source, origin or sponsorship of Applicant's goods, to believe that Applicant's goods emanate from Opposer, to believe that Applicant is in some way related to Opposer, and/or to believe that Applicant's goods marketed under the opposed mark are marketed with the consent, permission or authorization of Opposer.

21. If Applicant is permitted to register Applicant's Mark for the goods as set forth in the application herein opposed, it is likely that the relevant public will be confused as to source, resulting in damage and injury to Opposer.

22. Furthermore, any defect, objection or fault found with Applicant's goods would necessarily reflect on and seriously injure the reputation that Opposer has established under the GO SMILE Trademarks and the goods sold thereunder.

23. If Applicant were to be granted a registration for the mark herein opposed, it would obtain thereby at least a *prima facie* exclusive right to use the mark for Applicant's goods in International Classes 3 and 5. Such registration would be a source of damage and injury to Opposer, as set forth herein.



WHEREFORE, Opposer respectfully requests that this opposition be sustained and that registration of the mark SMILE!, Application Serial No. 85/102,954 for the products specified therein, be refused and that no registration should issue thereon to Applicant.

The Trademark Office is hereby authorized to charge any underpayment or overpayment to Deposit Account No. 50-1004.

Dated: May 9, 2011

Respectfully submitted,

By:           /Wendi E. Sloane/            
Wendi E. Sloane  
Thomas M. Gniot  
BARACK FERRAZZANO KIRSCHBAUM  
                    & NAGELBERG LLP  
200 West Madison Street  
Suite 3900  
Chicago, IL 60606-3465  
Phone: (312) 984-3100  
Fax: (312) 984-3150

Counsel for Opposer, GOSMILE, INC.

**Certificate of Service**

The undersigned, an attorney, hereby certifies that on May 9, 2011, she served a copy of this Notice of Opposition upon counsel for Applicant Oraceutical LLC by first class mail to:

Samuel Fifer, Esq.  
SNR Denton US LLP  
PO Box 161080 Wacker Drive Station Willis Tower  
Chicago, IL 60606-1080

          /Wendi E. Sloane/            
Wendi E. Sloane

Int. Cls.: 3 and 21

Prior U.S. Cls.: 1, 2, 4, 6, 13, 23, 29, 30, 33, 40, 50, 51,  
and 52

United States Patent and Trademark Office

Reg. No. 3,389,326

Registered Feb. 26, 2008

**TRADEMARK  
PRINCIPAL REGISTER**

**GOSMILE**

GOSMILE, INC. (DELAWARE CORPORATION)  
110 EAST 42ND STREET, SUITE 1100  
NEW YORK, NY 10017

FOR: PRODUCTS FOR CARE AND TREATMENT  
OF THE TEETH, LIPS AND BREATH, NAMELY,  
BREATH SPRAY, MOUTHWASH, TOOTHPASTE,  
LIP BALM, AND TOOTH WHITENERS COMPRISED  
OF PEROXIDE GELS, IN CLASS 3 (U.S. CLS. 1, 4, 6,  
50, 51 AND 52).

FIRST USE 7-31-2007; IN COMMERCE 7-31-2007.

FOR: TOOTHBRUSHES AND DENTAL FLOSS, IN  
CLASS 21 (U.S. CLS. 2, 13, 23, 29, 30, 33, 40 AND 50).

FIRST USE 7-31-2007; IN COMMERCE 7-31-2007.

OWNER OF U.S. REG. NO. 2,566,285.

SN 76-518,246, FILED 5-29-2003.

HENRY S. ZAK, EXAMINING ATTORNEY





**Int. Cl.: 3**

**Prior U.S. Cls.: 1, 4, 6, 50, 51, and 52**

**United States Patent and Trademark Office**

**Reg. No. 2,566,285**

**Registered Apr. 30, 2002**

**TRADEMARK  
PRINCIPAL REGISTER**

**GO SMILE**

**JONATHAN LEVINE (NEW YORK SOLE PROPRIETOR)  
923 FIFTH AVENUE, 1ST FLOOR  
NEW YORK, NY 10021**

**FIRST USE 6-1-2001; IN COMMERCE 6-1-2001.**

**SN 78-053,342, FILED 3-15-2001.**

**FOR: TOOTH WHITENING SYSTEM COMPRISED OF PEROXIDE GELS, IN CLASS 3 (U.S. CLS. 1, 4, 6, 50, 51 AND 52).**

**GINA HAYES, EXAMINING ATTORNEY**

**United States Patent and Trademark Office**[Home](#) | [Site Index](#) | [Search](#) | [Guides](#) | [Contacts](#) | [eBusiness](#) | [eBiz alerts](#) | [News](#) | [Help](#)**Assignments on the Web > Trademark Query****Trademark Assignment Abstract of Title****Total Assignments: 3****Serial #:** 78053342**Filing Dt:** 03/15/2001**Reg #:** 2566285**Reg. Dt:** 04/30/2002**Registrant:** Jonathan Levine**Mark:** GO SMILE**Assignment: 1****Reel/Frame:** 2810/0918**Received:** 03/15/2004**Recorded:** 03/15/2004**Pages:** 4**Conveyance:** ASSIGNS THE ENTIRE INTEREST**Assignor:** LEVINE, JONATHAN B.**Exec Dt:** 12/10/2003**Entity Type:** INDIVIDUAL**Citizenship:** UNITED STATES**Entity Type:** CORPORATION**Citizenship:** DELAWARE**Assignee:** GOSMILE, INC.

485 5TH AVENUE

3RD FLOOR

NEW YORK, NEW YORK 10017

**Correspondent:** TIMOTHY J. LYDEN

8300 GREENSBORO DRIVE, SUITE 1100

BOX INTELLECTUAL PROPERTY

MCLEAN, VA 22102

**Assignment: 2****Reel/Frame:** 2892/0509**Received:** 01/14/2004**Recorded:** 12/16/2003**Pages:** 3**Conveyance:** ASSIGNS THE ENTIRE INTEREST**Assignor:** LEVINE, JONATHAN B.**Exec Dt:** 12/10/2003**Entity Type:** INDIVIDUAL**Citizenship:** UNITED STATES**Entity Type:** CORPORATION**Citizenship:** DELAWARE**Assignee:** COSMILE, INC.

485 5TH AVENUE, 3RD FLOOR

NEW YORK, NEW YORK 10017

**Correspondent:** H. JAY SPIEGEL

P.O. BOX 11

MOUNT VERNON, VA 22121

**Assignment: 3****Reel/Frame:** 3605/0740**Received:** 08/16/2007**Recorded:** 12/16/2003**Pages:** 3**Conveyance:** CORRECTIVE ASSIGNMENT TO CORRECT THE ASSIGNEE'S NAME PREVIOUSLY RECORDED ON REEL 02892 FRAME 0509.**Assignor:** LEVINE, JONATHAN B.**Exec Dt:** 12/10/2003**Entity Type:** INDIVIDUAL**Citizenship:** NONE**Entity Type:** CORPORATION**Citizenship:** DELAWARE**Assignee:** GOSMILE, INC.

485 5TH AVENUE, 3RD FLOOR

NEW YORK, NEW YORK 10017

**Correspondent:** H. JAY SPIEGEL

P.O. BOX 11

MOUNT VERNON, VA 22121

Search Results as of: 05/09/2011 02:05 PM

If you have any comments or questions concerning the data displayed, contact PRD / Assignments at 571-272-3350. v.2.1

Web interface last modified: Apr 30, 2009 v.2.1



**Int. Cl.: 3**

**Prior U.S. Cls.: 1, 4, 6, 50, 51, and 52**

**United States Patent and Trademark Office**

**Reg. No. 3,218,390**

**Registered Mar. 13, 2007**

**TRADEMARK  
PRINCIPAL REGISTER**

**GOSMILE AM**

GOSMILE, INC. (DELAWARE CORPORATION)  
485 5TH AVENUE, 3RD FLOOR  
NEW YORK, NY 10017

OWNER OF U.S. REG. NO. 2,566,285.

FOR: TOOTHPASTE MARKETED AND SOLD IN  
HIGH END RETAIL DEPARTMENT STORES AS  
WELL AS IN SPAS, SALONS, RESORTS, DOCTORS'  
OFFICES, DENTISTS' OFFICES, AND HIGH END  
HOTELS, IN CLASS 3 (U.S. CLS. 1, 4, 6, 50, 51 AND 52).

NO CLAIM IS MADE TO THE EXCLUSIVE  
RIGHT TO USE "AM", APART FROM THE MARK  
AS SHOWN.

SN 76-518,247, FILED 5-29-2003.

FIRST USE 10-1-2003; IN COMMERCE 10-1-2003.

HENRY S. ZAK, EXAMINING ATTORNEY

**Int. Cl.: 3**

**Prior U.S. Cls.: 1, 4, 6, 50, 51, and 52**

**Reg. No. 3,414,828**

**United States Patent and Trademark Office**

**Registered Apr. 22, 2008**

**TRADEMARK  
PRINCIPAL REGISTER**

**GOSMILE PM**

GOSMILE, INC. (DELAWARE CORPORATION)  
SUITE 1100  
110 EAST 42ND STREET  
NEW YORK, NY 10017

FOR: TOOTHPASTE MARKETED AND SOLD IN  
HIGH END RETAIL DEPARTMENT STORES AS  
WELL AS IN SPAS, SALONS, RESORTS, DOCTORS'  
OFFICES, DENTISTS' OFFICES, AND HIGH END  
HOTELS, IN CLASS 3 (U.S. CLS. 1, 4, 6, 50, 51 AND  
52).

FIRST USE 10-1-2003; IN COMMERCE 10-1-2003.

OWNER OF U.S. REG. NO. 2,566,285.

NO CLAIM IS MADE TO THE EXCLUSIVE  
RIGHT TO USE "PM", APART FROM THE MARK  
AS SHOWN.

SN 76-518,244, FILED 5-29-2003.

HANNO RITTNER, EXAMINING ATTORNEY

**Int. Cl.: 3**

**Prior U.S. Cls.: 1, 4, 6, 50, 51, and 52**

**United States Patent and Trademark Office**

**Reg. No. 3,230,142**

**Registered Apr. 17, 2007**

**TRADEMARK  
PRINCIPAL REGISTER**

**GOSMILE AM/PM**

GOSMILE, INC. (DELAWARE CORPORATION)  
110 EAST 42ND STREET, SUITE 1100  
NEW YORK, NY 10017

OWNER OF U.S. REG. NO. 2,566,285.

FOR: TOOTHPASTE MARKETED AND SOLD IN  
HIGH END RETAIL DEPARTMENT STORES AS  
WELL AS IN SPAS, SALONS, RESORTS, DOCTORS'  
OFFICES, DENTISTS' OFFICES, AND HIGH END  
HOTELS, IN CLASS 3 (U.S. CLS. 1, 4, 6, 50, 51 AND 52).

NO CLAIM IS MADE TO THE EXCLUSIVE  
RIGHT TO USE "AM/PM", APART FROM THE  
MARK AS SHOWN.

SN 76-518,245, FILED 5-29-2003.

FIRST USE 10-1-2003; IN COMMERCE 10-1-2003.

HENRY S. ZAK, EXAMINING ATTORNEY

**United States of America**  
United States Patent and Trademark Office

**GO SMILE**

**Reg. No. 3,850,454**

**Registered Sep. 21, 2010**

**Int. Cl.: 21**

**TRADEMARK**

**PRINCIPAL REGISTER**

GOSMILE, INC. (DELAWARE CORPORATION)  
715 HEARST AVENUE, SUITE 300  
BERKELEY, CA 94710

FOR: DENTAL FLOSS, IN CLASS 21 (U.S. CLS. 2, 13, 23, 29, 30, 33, 40 AND 50).

FIRST USE 1-0-2010; IN COMMERCE 1-0-2010.

THE MARK CONSISTS OF STANDARD CHARACTERS WITHOUT CLAIM TO ANY PARTICULAR FONT, STYLE, SIZE, OR COLOR.

SN 77-325,004, FILED 11-8-2007.

RENEE MCCRAY, EXAMINING ATTORNEY



*David J. Kybas*

Director of the United States Patent and Trademark Office

Int. Cl.: 35

Prior U.S. Cls.: 100, 101 and 102

Reg. No. 3,461,582

United States Patent and Trademark Office

Registered July 8, 2008

Amended

OG Date Mar. 1, 2011

SERVICE MARK  
PRINCIPAL REGISTER

GO SMILE

GOSMILE, INC. (DELAWARE CORPORATION)  
715 HEARST AVENUE, SUITE 300  
BERKELEY, CA 94710

THE MARK CONSISTS OF STANDARD CHARACTERS WITHOUT CLAIM TO ANY PARTICULAR FONT, STYLE, SIZE, OR COLOR.

FOR: ON-LINE RETAIL STORE SERVICES FEATURING ORAL CARE PRODUCTS, IN CLASS 35 (U.S. CLS. 100, 101 AND 102).

FIRST USE 7-22-2001; IN COMMERCE 7-22-2001.

SER. NO. 77-325,028, FILED 11-8-2007.

*In testimony whereof I have hereunto set my hand  
and caused the seal of The Patent and Trademark  
Office to be affixed on Mar. 1, 2011.*



Int. Cls.: 3 and 21

Prior U.S. Cls.: 1, 2, 4, 6, 13, 23, 29, 30, 33, 40, 50, 51  
and 52

United States Patent and Trademark Office

Reg. No. 3,612,420

Registered Apr. 28, 2009

TRADEMARK  
PRINCIPAL REGISTER



GOSMILE, INC. (DELAWARE CORPORATION)  
715 HEARST AVENUE  
SUITE 300  
BERKELEY, CA 94710

FOR: BREATH FRESHENER; LIP BALM;  
MOUTHWASH; TOOTH WHITENING PREPARA-  
TIONS; TOOTHPASTE, IN CLASS 3 (U.S. CLS. 1, 4,  
6, 50, 51 AND 52).

FIRST USE 5-0-2008; IN COMMERCE 5-0-2008.

FOR: TOOTHBRUSHES, IN CLASS 21 (U.S. CLS. 2,  
13, 23, 29, 30, 33, 40 AND 50).

FIRST USE 11-0-2008; IN COMMERCE 11-0-2008.

OWNER OF U.S. REG. NOS. 2,566,285, 3,461,582  
AND OTHERS.

THE MARK CONSISTS OF THE WORD "GO" IN  
STYLIZED SCRIPT AND THE WORD "SMILE" IN  
STYLIZED SCRIPT.

SER. NO. 77-634,334, FILED 12-16-2008.

GILBERT SWIFT, EXAMINING ATTORNEY

Int. Cl.: 3

Prior U.S. Cls.: 1, 4, 6, 50, 51 and 52

United States Patent and Trademark Office

Reg. No. 3,198,345

Registered Jan. 16, 2007

TRADEMARK  
PRINCIPAL REGISTER

LEMONADE SMILE

GOSMILE, INC. (DELAWARE CORPORATION)  
110 EAST 42ND STREET SUITE 1301  
NEW YORK, NY 10017

FOR: TOOTHPASTE, IN CLASS 3 (U.S. CLS. 1, 4, 6,  
50, 51 AND 52).

FIRST USE 12-15-2005; IN COMMERCE 12-15-2005.

THE MARK CONSISTS OF STANDARD CHAR-  
ACTERS WITHOUT CLAIM TO ANY PARTICULAR  
FONT, STYLE, SIZE, OR COLOR.

NO CLAIM IS MADE TO THE EXCLUSIVE  
RIGHT TO USE LEMONADE, APART FROM THE  
MARK AS SHOWN.

SER. NO. 78-731,289, FILED 10-12-2005.

RAUL CORDOVA, EXAMINING ATTORNEY

Int. Cl.: 3

Prior U.S. Cls.: 1, 4, 6, 50, 51, and 52

United States Patent and Trademark Office

Reg. No. 3,433,410

Registered May 20, 2008

**TRADEMARK  
PRINCIPAL REGISTER**

THE SMILE BEAUTY COMPANY

GOSMILE, INC. (DELAWARE CORPORATION)  
110 EAST 42ND STREET, SUITE 1100  
NEW YORK, NY 10017

FOR: ORAL CARE PRODUCTS, NAMELY,  
TOOTH WHITENERS, LIP GLOSS, TOOTHPASTES,  
BREATH FRESHENERS, NAMELY, (1) DILUTED  
BREATH SPRAYS USED AS MOUTHWASH, AND (2)  
CONCENTRATED BREATH SPRAYS, IN CLASS 3  
(U.S. CLS. 1, 4, 6, 50, 51 AND 52).

FIRST USE 1-0-2006; IN COMMERCE 1-0-2006.

THE MARK CONSISTS OF STANDARD CHAR-  
ACTERS WITHOUT CLAIM TO ANY PARTICULAR  
FONT, STYLE, SIZE, OR COLOR.

NO CLAIM IS MADE TO THE EXCLUSIVE  
RIGHT TO USE "COMPANY", APART FROM THE  
MARK AS SHOWN.

SN 78-980,038, FILED 10-6-2005.

ALICE BENMAMAN, EXAMINING ATTORNEY

Int. Cl.: 3

Prior U.S. Cls.: 1, 4, 6, 50, 51 and 52

United States Patent and Trademark Office

Reg. No. 3,612,421

Registered Apr. 28, 2009

TRADEMARK  
PRINCIPAL REGISTER

SMILECEUTICALS

GOSMILE, INC. (DELAWARE CORPORATION)  
715 HEARST AVENUE, SUITE 300  
BERKELEY, CA 94710

FOR: BREATH FRESHENER; LIP BALM; NON-MEDICATED DENTAL RINSE, IN CLASS 3 (U.S. CLS. 1, 4, 6, 50, 51 AND 52).

FIRST USE 6-0-2006; IN COMMERCE 6-0-2006.

THE MARK CONSISTS OF STANDARD CHARACTERS WITHOUT CLAIM TO ANY PARTICULAR FONT, STYLE, SIZE, OR COLOR.

SER. NO. 77-634,357, FILED 12-16-2008.

GILBERT SWIFT, EXAMINING ATTORNEY

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**Serial Number:** 77886519 Assignment Information

Trademark Document Retrieval

**Registration Number:** (NOT AVAILABLE)

**Mark**

**FLASH YOUR SMILE**

**(words only):** FLASH YOUR SMILE

**Standard Character claim:** Yes

**Current Status:** A first request for extension of time to file a Statement of Use has been granted.

**Date of Status:** 2010-12-01

**Filing Date:** 2009-12-04

**Filed as TEAS Plus Application:** Yes

**Currently TEAS Plus Application:** Yes

**The Notice of Allowance Date is:** 2010-06-22

**Transformed into a National Application:** No

**Registration Date:** (DATE NOT AVAILABLE)

**Register:** Principal

**Law Office Assigned:** LAW OFFICE 106

**Attorney Assigned:**  
SALEMI DOMINICK J

**Current Location:** 700 -Intent To Use Section

**Date In Location:** 2010-06-22

---

**LAST APPLICANT(S)/OWNER(S) OF RECORD**

---

1. GOSMiLE, Inc.

**Address:**

GOSMiLE, Inc.

715 Hearst Avenue, Suite 300

Berkeley, CA 94710

United States

**Legal Entity Type:** Corporation

**State or Country of Incorporation:** Delaware

---

**GOODS AND/OR SERVICES**

---

**International Class:** 003

**Class Status:** Active

Tooth whitening preparations

**Basis:** 1(b)

**First Use Date:** (DATE NOT AVAILABLE)

**First Use in Commerce Date:** (DATE NOT AVAILABLE)

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**ADDITIONAL INFORMATION**

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(NOT AVAILABLE)

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**MADRID PROTOCOL INFORMATION**

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(NOT AVAILABLE)

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**PROSECUTION HISTORY**

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**NOTE:** To view any document referenced below, click on the link to "Trademark Document Retrieval" shown near the top of this page.

2010-12-03 - Notice Of Approval Of Extension Request E-Mailed

2010-12-01 - Extension 1 granted



2010-12-01 - Extension 1 filed  
2010-12-01 - TEAS Extension Received  
2010-06-22 - NOA E-Mailed - SOU Required From Applicant  
2010-04-27 - Notice Of Publication E-Mailed  
2010-04-27 - Published for opposition  
2010-03-23 - Law Office Publication Review Completed  
2010-03-23 - Assigned To LIE  
2010-03-08 - Approved For Pub - Principal Register  
2010-03-08 - Assigned To Examiner  
2009-12-11 - New Application Office Supplied Data Entered In Tram  
2009-12-08 - New Application Entered In Tram

---

#### **ATTORNEY/CORRESPONDENT INFORMATION**

---

**Attorney of Record**

Wendi E. Sloane

**Correspondent**

WENDI E. SLOANE

BARACK FERRAZZANO KIRSCHBAUM & NAGELBERG

200 W MADISON ST STE 3900

CHICAGO, IL 60606-3459

Phone Number: 312-984-3100

Fax Number: 312-984-3150

---

# United States of America

United States Patent and Trademark Office

## LIGHT YOUR SMILE

**Reg. No. 3,920,692**

**Registered Feb. 15, 2011**

**Int. Cl.: 10**

**TRADEMARK**

**PRINCIPAL REGISTER**

GOSMILE, INC. (DELAWARE CORPORATION)  
715 HEARST AVENUE, SUITE 300  
BERKELEY, CA 94710

FOR: DENTAL APPARATUS, NAMELY, INTRA-ORAL LIGHT SYSTEMS, IN CLASS 10  
(U.S. CLS. 26, 39 AND 44).

FIRST USE 8-11-2010; IN COMMERCE 8-11-2010.

THE MARK CONSISTS OF STANDARD CHARACTERS WITHOUT CLAIM TO ANY PARTICULAR FONT, STYLE, SIZE, OR COLOR.

NO CLAIM IS MADE TO THE EXCLUSIVE RIGHT TO USE "LIGHT", APART FROM THE MARK AS SHOWN.

SN 77-828,985, FILED 9-17-2009.

ARETHA SOMERVILLE, EXAMINING ATTORNEY



*David J. Kybas*

Director of the United States Patent and Trademark Office



**Thank you for your request. Here are the latest results from the TARR web server.**

**This page was generated by the TARR system on 2011-05-09 15:27:51 ET**

**Serial Number:** 85205149 Assignment Information

Trademark Document Retrieval

**Registration Number:** (NOT AVAILABLE)

**Mark**

**SMILE ON THE GO**

**(words only):** SMILE ON THE GO

**Standard Character claim:** Yes

**Current Status:** Application has been published for opposition. The opposition period begins on the date of publication.

**Date of Status:** 2011-05-03

**Filing Date:** 2010-12-23

**The Information will be/was published in the Official Gazette on** 2011-05-03

**Transformed into a National Application:** No

**Registration Date:** (DATE NOT AVAILABLE)

**Register:** Principal

**Law Office Assigned:** LAW OFFICE 111

**Attorney Assigned:**  
ORNDORFF LINDA B

**Current Location:** 650 -Publication And Issue Section

**Date In Location:** 2011-03-30

---

**LAST APPLICANT(S)/OWNER(S) OF RECORD**

---

1. GOSMiLE, Inc.

**Address:**

GOSMiLE, Inc.

715 Hearst Avenue, Suite 300

Berkeley, CA 94710

United States

**Legal Entity Type:** Corporation

**State or Country of Incorporation:** Delaware

---

---

**GOODS AND/OR SERVICES**

---

**International Class:** 003

**Class Status:** Active

kits comprised primarily of teeth whitening preparations; teeth whitening preparations

**Basis:** 1(b)

**First Use Date:** (DATE NOT AVAILABLE)

**First Use in Commerce Date:** (DATE NOT AVAILABLE)

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**ADDITIONAL INFORMATION**

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**Prior Registration Number(s):**

2914821

3016610

3325107

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**MADRID PROTOCOL INFORMATION**

---

(NOT AVAILABLE)

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**PROSECUTION HISTORY**

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**NOTE:** To view any document referenced below, click on the link to "Trademark Document Retrieval" shown near the top of this page.

2011-05-03 - Notice Of Publication E-Mailed

2011-05-03 - Published for opposition

2011-03-24 - Approved For Pub - Principal Register

2011-03-23 - Assigned To Examiner

2011-01-04 - New Application Office Supplied Data Entered In Tram

2010-12-27 - New Application Entered In Tram

---

**ATTORNEY/CORRESPONDENT INFORMATION**

---

**Attorney of Record**

Wendi E. Sloane

**Correspondent**

WENDI E. SLOANE

BARACK FERRAZZANO KIRSCHBAUM & NAGELBERG

200 W MADISON ST STE 3900

CHICAGO, IL 60606-3459

Phone Number: 312-984-3100

Fax Number: 312-984-3150

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### KEEP YOUR TEETH WHITE



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You will achieve a dazzling, beautiful smile in just days – and keep it that way. The secret is our patented, exclusive Ampoule Technology™ Delivery System, which makes it as easy to whiten your teeth as it is to apply lip gloss!

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[NEW! Smile Whitening Light System - 6 Count](#)



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[NEW! Smile Whitening System & FREE Toothpaste Sampler](#)



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[NEW! Speed Whitening System](#)



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[NEW! Smile Whitening Ampoule Refill for Smile Whitening Light System](#)

[NEW! Green Apple Toothpaste](#)

[Touch Up® Flavor Variety Pack - 14 Count with Carrying Case](#)





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\$16

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\$28

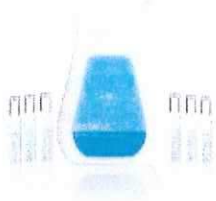
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Sets and kits make it easy to whiten your teeth AND keep them white, at a great value. And a great smile is more than just great teeth. Our "smile accessories" take care of your entire smile!

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